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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/382,709 08/23/99 CEDERBERG

C S855-001-PAT

EXAMINER

PM82/0226

FRIEDERICHS LAW FIRM, PLC
1295 FIFTH STREET TOWERS
100 SOUTH FIFTH STREET
MINNEAPOLIS MN 55402

PORTERIE, B
ART UNIT PAPER NUMBER

3635
DATE MAILED:

02/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/382,709

Applicant(s)

CEDERBERG, CULLY
T.09382709

Examiner

Bennett L Porterie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 20) ☐ Other: ____

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The following office action responds to patent application Serial Number 09/382,709 filed on 8/23/99 entitled "The Door Jamb" and an amendment received on 12/20/2000 (in response to a first office action dated 10/4/2000).

Claim Objections

Claim 4 objected to because of the following informalities: line 9 reads: "... said out element" Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2,7,11,12,14 & 16 -18 rejected under 35 U.S.C. 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 7 -8, calls for "... an inner structural second element" But then lines 9 - 10 call for an "... outer element comprising . . . [a] structure" Then line 10 refers to a "... structural portion" as part of the outer element. So this repeated use of different forms of the word "structur[e]" makes it unclear what part of the outer element comprises the "... structural portion" For claim 2, line 2 includes the words "... outer structural portion" For claim 7, first, on the third and second to last lines on p. 2 of the amendment received Dec. 20, 2000, the claims call for an apparatus. But the language reads, "... a portion adapted for at least partial insertion" Examiner suggests

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language such as "... a portion partially inserted into ..." Second, on the line second to the last line on p. 2, "... a selected of said pair of cavities ..." does not make it clear into which cavity to partially insert the first and second element parts.

For claim 11, on p. 3 of the same amendment, "... said second element including wall means ..." does not clearly establish the relationship between the second element and its wall means related to the intermediate element. Also for claim 11, lines 11 –12 & 14, again, the claims call for an apparatus. So examiner suggests changing "... for engagement with ..." to "... engaging with ..." Claim 14 recites the limitation "third portion" in line 8. There is insufficient antecedent basis for this limitation in the claim. For claims 12 & 17, the language in those claims does not clearly define the physical boundaries of the "track." For claim 16, line 5, examiner suggests deleting "... for ..." in "... means for securing ..." For claim 18, line 12, suggest changing "... adapted for alignment ..." to "... aligned ..." Also, for claim 18, lines 14 & 16, suggest changing "... means for receipt ..." to "... receiving ..."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 12 rejected under 35 U.S.C. 102(b) as anticipated by Kiselewski. Figs. 1 & 2 of Kiselewski disclose a frame (adjustable metal door frame 10 in fig. 1) for an

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opening (at door 42 in fig. 1) in a building ("low-cost housing" in col. 1, line 15) comprising two upright side jambs (22 in fig. 1) and a horizontal head jamb (24). From fig. 1, the horizontal head jamb's two ends connect the two vertical side jamb's upper ends. The upright side jambs (22) and the horizontal head jamb (24) each consist of a first element (30 or 32), a second element (22 or 24) and a third element (head retainer clip 18). The first element comprises an elongated structure (trim jamb 30 in fig. 2) with a thickened part and a reduced thickness part (near clip flange 36). The third element (18) defines a track means. Both part of the first element (clip flange 36) and part of the second element (clip flange 28) are disposed in at least part of the track means and set to provide the selected width for the respective door jamb.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 - 11 rejected under 35 U.S.C. 103(a) as unpatentable over Eisenring and Adams ('033). For claim 1, page 1 of the PTO's translated copy of Eisenring discloses a door jamb with a door frame comprising frame components on the side and top of the door. The only unnumbered figure drawing in Eisenring discloses that the door frame components comprise three elements or parts – an outer low maintenance

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element (frame part 1), an intermediate low maintenance element (H-shaped PVC connecting component 6) and an inner structural second element (rear frame component 2). The elongated outer element [frame component (1)] has outer and elongated parts. (See claim 1's 112(2) rejection above for the limitation calling for "... structural portion" including walls to define a cavity). The intermediate element (6) has walls, (1) [arm (8) & inside flange (12)] & (2) [arm (7) & an unnumbered wall across from (7)] that define two oppositely facing cavities. The door jamb also has an elongated inner structural element [frame component (2)] with an exposed surface. The two sets of walls that define two oppositely facing cavities serve as a means to secure the three elements into a rough door opening.

But Eisenring does not disclose the outer element as tubular. However, fig. 3 of Adams ('033) discloses a three-part jamb assembly for a window with an elongated and extruded tubular vinyl outer element [generally L-shaped casing piece (12)] that includes an outer portion [flange portion (44)] and an elongated portion [body portion (42)]. As to a reason to form Eisenring's outer element out of extruded tubular vinyl, col. 1, lines 46 – 48, state that the use of window frames made of extruded vinyl pieces has become universally standard among builders. This is probably because extruded tubular vinyl offers a window (or door jamb) material that is easier to manufacture and costs less. So one of ordinary skill in this art would have known to form Eisenring's three parts by extruding tubular vinyl because builders have made it the standard based on lower cost and lower skill needed to manufacture it.

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For claim 2, two of the four walls [arm (7) & an unnumbered wall across from (7)] in Eisenring that define the intermediate element cavities include a means to secure the outer structural part (see 112(2) above) to the intermediate element. For claim 3, two of the four walls [arm (8) & inside flange (12)] that define the intermediate element cavities include a means to secure the inner structural member (2) to the intermediate element (6). For claim 4, the outer structural member (1) includes means (bent inside edge 3a) to engage the intermediate element's (6) securing means to lock the out[er] and intermediate elements together. For claim 5, the outer structural element (12) in fig. 3 of Adams ('033) comprises an extruded tubular element per col. 1, lines 5 – 9. See claim 1 for a reason to combine Adams with Eisenring. For claim 6, the intermediate element [U-shaped extruded vinyl channel (50)] in fig. 3 of Adams ('033) comprises an extruded element per col. 1, lines 5 – 9.

For claim 7, fig. 3 of Adams ('033) discloses the first element (12) comprising an elongated tubular structure [body portion (42) and flange portion (44) form hollow channels (58)] with a decorative portion [flange portion (44)] and a structural portion (body portion (42)). Also, fig. 3 discloses the second element (14) as an elongated tubular structure with an exposed surface [the flat inside face of (14)] adapted for alignment with the surface of the inner wall (18). Finally, Eisenring shows the first (1) and second (2) elements each with a part [(bent inside edge (3a) for (1) & teeth (11) for (2)] adapted to at least partially insert the part into the intermediate element's (6's) respective cavities. For claims 8 & 9, fig. 3 of Adams ('033) & col. 1, lines 5 – 9, disclose its first (12) and second (14) elements as extruded tubular elements. For claim

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10, fig. 5 of Adams ('033) discloses a corner key (60) connecting the side and head jambs.

For claim 11, fig. 3 of Adams ('033) discloses the first (12) and second (14) elements as tubular with an intermediate element [U-shaped channel piece (50)]. The first element comprising an elongated structure (12) has a thickened part (44) adapted to serve as a decorative strip disposed along the opening (see fig. 3) and an elongated part of reduced thickness (42). The only figure in Eisenring discloses that the intermediate element (6) has a first means [arm (7) & an unnumbered wall across from (7) & toothed rib (10)] to engage with part of the first element [inside edge (3a)]. Intermediate element (6) also defines a second means [arm (8) & inside flange (12) & teeth (11)] to engage with the second element to adjust the door jamb's width.

Claims 13 - 18 rejected under 35 U.S.C. 103(a) as unpatentable over Eisenring, Adams ('033) and Peterson. For claim 13, again, Eisenring & Adams ('330) disclose all of claim 13 except for a key that extends into and connects the tubular upright side jambs and the tubular head jamb.

But fig. 3 of Peterson discloses a key (corner piece) with two arms (12 & 14) that slides structural frame members at perpendicular angles (spacer bars (40 & 42)) positioned like the head and side jambs in Adams. Peterson teaches that its key can connect and extend into voids in the tubes of the jambs in Adams set at perpendicular angles just as Peterson's key slides or extends into voids in spacer bars. So one of ordinary skill in this art would have known to substitute Peterson's key for the corner

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piece in Adams because both pieces connect structural frame members at perpendicular angles.

For claims 14 & 16, see claim 13. For claim 15, see claim 11. For claim 17, as examiner best understands the limits of "the track," the first element's walls in Eisenring [shoulder (4)] and Eisenring's second element's walls (3b) define a "track" with part of the second element (2) selectively positioned partly in the "track" to provide a desired door jamb depth. For claim 18, see the relevant earlier claims.

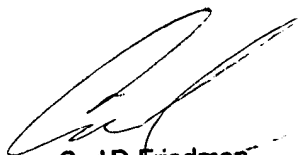
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. Bennett Porterie, Jr. whose telephone number is 703-305-3012. The examiner can normally be reached on Monday - Friday from 7:30 to 4:30 Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman, can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

LBP
Feb. 21, 2000


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

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